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FISCAL IMPACT STATEMENT

LS 6271

BILL NUMBER: HB 1048

NOTE PREPARED: Feb 2, 2010

BILL AMENDED: Jan 26, 2010

SUBJECT: Property Tax Deductions for Contract Purchasers.

FIRST AUTHOR: Rep. Cheatham

FIRST SPONSOR: Sen. Steele

BILL STATUS: As Passed House

FUNDS AFFECTED: ☒ **GENERAL**
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill, with respect to a contract for the purchase of a single family dwelling that is not prepared by an attorney or a licensed real estate broker or salesperson, provides that the contract is valid only if: (1) the contract is notarized; and (2) if the contract is for a term of at least three years, the contract is recorded in the county in which the dwelling is located. It provides that the notary public who notarizes the contract must provide to the contract purchaser a form that: (1) is prescribed by the department of local government finance; (2) is made available to notaries public, certain county officials, and the public in an electronic format; and (3) describes the availability of certain property tax deductions. It provides that a notary is not liable for the content of the form or for failing to provide the form.

The bill also provides that the requirements that: (1) a contract for the purchase of a single family dwelling must be notarized and, in certain circumstances, recorded; and (2) the notary public notarizing the contract must provide the contract purchaser with the form concerning property tax benefits; do not apply to a contract between an initial home buyer and a builder for the construction of a new home. It provides the same exemption for a contract in which an individual purchases a new manufactured home or new mobile home: (1) for use as a residence that the individual will occupy as the first occupant; and (2) directly from the manufacturer, the manufacturer's agent, a dealer, or a seller that did not previously purchase the manufactured home or mobile home in a retail transaction.

Effective Date: Upon passage.

Explanation of State Expenditures: (Revised) Under current law, the Department of Local Government Finance (DLGF) is required to provide to closing agents (typically attorneys and real estate agents) a form listing each property tax benefit and its eligibility criteria. Closing agents, in turn, are required under penalty of law to make this form available to their clients who are purchasing or refinancing a single-family

residence.

Under this bill, before July 1, 2010, the DLGF would also have to make the form available to a notary public who is notarizing a contract purchase of a single-family residence. The bill requires the DLGF to state on the form how the taxpayer would switch the standard deduction from the taxpayer's current residence to the residence being purchased (taxpayers are allowed only one (1) standard deduction under current law).

The DLGF would also have to state the tax consequences (repayment of the deduction and a civil penalty of 10% of the additional taxes due) and applicable penalty (prison term of 6 months to three (3) years) for claiming a second standard deduction.

The bill stipulates that after June 30, 2010, a contract purchase that is not prepared by an attorney, a broker, or a salesperson is valid only if the contract is notarized. Additionally, if the contract is for three (3) years or more, it must be recorded in the county in which the dwelling is located. The bill does not apply to a contract between an initial home buyer and a builder for the construction of a new single family dwelling. This exemption would also apply to a new manufactured home or new mobile home, not assessed as real property, that the taxpayer purchases directly from the manufacturer, the manufacturer's agent, a dealer or a seller that did not previously purchase the home in a retail transaction. The home must never have been occupied before and would be used by the taxpayer as a residence.

The bill, as it pertains to the relationship between the DLGF and a closing agent, would extend to notaries the same privilege that is currently granted to attorneys and real estate agents. However, unlike attorneys and real estate agents, notaries would not be penalized for not providing the information on property tax deductions to clients (closing agents can be fined \$25 for each violation), and would not be required to submit data on the transaction to the Department of Insurance.

The fiscal impact of this legislation on the DLGF would be minimal as the department currently provides the information on property tax deductions on-line. The DLGF would have to modify the current form to include the criminal penalty for unlawfully claiming a standard deduction. This requirement would be within the agency's routine administrative functions.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: DLGF.

Local Agencies Affected:

Information Sources:

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